

CITY OF LINCOLN/LANCASTER COUNTY

CONTRACT AWARD NOTIFICATION

SPECIFICATION NO.05-064

ANNUAL REQUIREMENTS FOR LIQUID FERROUS CHLORIDE

DATE: April 28, 2005

CONTRACT PERIOD: April 1, 2005 thru March 31, 2006

CONTRACTOR: Kemiron Companies Inc
3211 Clinton Pkwy Ct.
Lawrence KS 66047

PURCHASING DIVISION
K-STREET COMPLEX
440 SOUTH 8TH STREET
LINCOLN, NEBRASKA 68508
(402) 441-7410

Company Representative: Tammy Yergey
Telephone No.: 800-879-6353
FAX No.:
E-Mail Address:

THE CITY/COUNTY'S SPECIFICATIONS AND THE CONTRACTOR'S ACCEPTED PROPOSAL AND PRICING SCHEDULES, NOW ON FILE IN THE OFFICE OF THE CITY CLERK AND/OR THE COUNTY CLERK, ARE ADOPTED BY REFERENCE AND ARE AS FULLY A PART OF THIS CONTRACT FOR THE ABOVE-NAMED COMMODITY AS IF REPEATED VERBATIM HEREIN.

Per Proposal & Contract (dated 2005)

NO ACTION NEED BE TAKEN BY THE CONTRACTOR AT THIS TIME. ORDERS FOR MATERIAL WILL BE MADE AS NEEDED BY THE VARIOUS CITY/COUNTY DEPARTMENTS.

DEPARTMENTS REQUIRING CATALOGS AND/OR PRICING SCHEDULES SHALL NOTIFY THE CONTRACTOR DIRECTLY.

F:/files/sharpurc/awardnotifications/con05064

E.O. #72836
Dated:03/31/05

72836

CONTRACT DOCUMENTS

**CITY OF LINCOLN
NEBRASKA**

Annual Requirements for Liquid Ferrous Chloride

AS PER SPECIFICATION 05-064

Contractor: Kemiron Companies, Inc.

*Copy of
original
SW*

**CITY OF LINCOLN, NEBRASKA
CONTRACT AGREEMENT**

THIS CONTRACT, made and entered into this 8th day of April 2005, by and between **Kemiron Companies, Inc.** hereinafter called contractor, and the City of Lincoln, Nebraska, a municipal corporation, hereinafter called the City.

WITNESS, that:

WHEREAS, the City has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

Furnishing, delivering and unloading of liquid ferrous chloride at the Theresa Street Wastewater Treatment Facility as per Spec. 05-064
and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the City, in the manner and at the time specified, a sealed Proposal in accordance with the terms of said advertisement; and,

WHEREAS, the City, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal, a copy thereof being attached to and made a part of this Contract;

EQUAL EMPLOYMENT OPPORTUNITY: In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the agreements herein contained, the Contractor and the City have agreed and hereby agree as follows:

1. **General Description:** The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents.
2. **Term of the Agreement:** Term of the Agreement shall be one year as twelve (12) consecutive months, and shall be April 1, 2005 through March 31, 2006.
 - 2.1 At the City's request, with the Contractor's consent, the agreement shall be renewable for two (2) each additional one (1) year periods with any extensions as mutually agreed.

3. Governing Law: The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this agreement.
4. Quantity Requirements: The quantities set forth in the specification document are approximate and represent the estimated requirements of the City for the contract period. Quantities listed may or may not be inclusive of City requirements for this category.
5. Equal Employment Opportunity: In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age or marital status.
 - 5.1 The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, color, sex or national origin.
 - 5.2 Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.
6. The Contract Documents comprise the Contract, and consist of the following:
 1. This Contract Agreement
 2. The Specifications Exhibit A
 3. The Accepted Proposal Exhibit B
 4. Insurance Requirements Exhibit C
7. Compensation: The City shall pay for purchased services, supplies and equipment at the rates as set forth in **Exhibit B**. Payment will be made, unless otherwise stated, within thirty (30) calendar days after acceptance and proper invoicing by the Contractor. No increase above said bid price will be allowed to the Contractor during the term of the contract unless and except as provided by the specifications.
8. Invoices: Contractor shall, within fifteen (15) working days following the last day of each calendar month in which services were provided, submit an invoice and request for payment on an invoice form acceptable to the City. The invoice shall itemize:
 - 8.1 the services, equipment, supplies rendered listed by classification;
 - 8.2 the date such services were provided;
 - 8.3 a general description of the services, equipment, supplies provided;
 - 8.4 the name of client, department, agency receiving services;
 - 8.5 the amount and type of all reimbursable expenses being charged to the Contract, and
 - 8.6 the dates of the performance period covered by the invoice.
9. Payment of Unauthorized Claims: The City may refuse to pay any claim that is not specifically authorized by this Contract. Payment of a claim shall not preclude the City from questioning the propriety of the claim. The City reserves the right to offset any overpayment or disallowance of claim by reducing future payments.

10. Inclusion of All Necessary Fees: The Contractor shall comply with all federal, state, and local laws together with all ordinances and regulations applicable to the services. The Contractor shall procure all licenses, permits, or other rights necessary for the fulfillment of its obligation under this agreement.
11. Status of Employees: Any and all employees of the Contractor or other persons, while engaged in the performance of any work or services required by the Contractor under this agreement, shall not be considered employees of the City and all claims that may or might arise under the Worker's Compensation on behalf of said employees or other persons while so engaged, and any and all claims made by any third party as a consequence of any act or omission on the part of the work or service provided to be rendered herein, shall in no way be the obligation or responsibility of the City. For all purposes the Contractor shall be considered an Independent Contractor.
12. Indemnification: The Contractor shall indemnify and save harmless the City of Lincoln, Nebraska from and against all losses, claims, damages, and expenses, including attorney's fees, arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Contractor, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the contractor to indemnify or hold harmless the City of Lincoln for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of the City of Lincoln, Nebraska.
13. Non-exclusiveness of Remedies: Any right or remedy on behalf of the City provided for in any part of this contract, including , but not limited to, any guaranty or warranty or any remedy for Contractor's nonperformance shall be in addition to and not a limitation of any right or remedy otherwise available by law, equity, or statute.
14. Non-exclusive Relationship: The Contractor shall not necessarily be the sole contractor for the purposes of providing the services necessary to meet the needs of the City. City hereby expressly reserves the right, in its sole discretion, to enter into similar agreements with or purchase similar services from one or more providers, other than the Contractor.
15. Payment Upon Early Termination: In the event this Contract is terminated before the completion of services, the City shall pay the Contractor for services provided in a satisfactory manner, a sum based upon the actual time/materials spent at the rates stated in **Exhibit B**. In no case shall such payment exceed the total contract price.
16. Termination: The Agreement may be terminated by the following:
 - 16.1 Termination for Convenience. The city and/or Contractor may terminate any part of or the entire contract that may result from this bid without cause and at any time provided the other party is given thirty (30) calendar days written notice.
 - 16.2 Termination for Cause. The city may terminate the Contract if the Contractor:
 - 16.2.1 Refuses or fails to supply enough properly skilled workers or proper equipment to satisfactorily provide complete needs assessment as requested.
 - 16.2.2 Disregards laws, ordinances, or regulations or orders of a public authority having jurisdiction over the Contract.
 - 16.2.3 Otherwise commits a substantial breach of any provision of the Contract Document.

- 16.3 Termination for Insolvency. Contractor shall be deemed to be insolvent if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition for bankruptcy has been filed, and whether or not insolvent within the meaning of the Federal Bankruptcy Law; the filing of a voluntary petition to have Contractor declared bankrupt; the appointment of a Receiver or Trustee for Contractor; or the execution by Contractor of a general assignment for the benefit of creditors.
17. Termination Process: The City and the Contractor shall have the following obligations upon termination:
- 17.1 The City must notify the Contractor in writing. Upon receipt of notice, the Contractor must cease all work and proceed to close out all operations.
- 17.2 The Contractor must appraise the work completed and submit the appraisal to the City for evaluation.
- 17.2.1 In the event of termination for any reason, Contractor shall make available to the City or its designate a full accounting of the status of all City accounts.
- 17.2.2 The City will pay the Contractor a fee for the percentage of the work actually completed as payment in full for services rendered to the date of termination.
- 17.2.2.1 The fees shall be the Contractor's fee as described in the offer (see **Exhibit B**).
- 17.2.2.2 The City will make final payment within 60 days of contractor's delivery and City's acceptance of all completed or partially completed work.
18. Notices: All notices or demands required or permitted to be given or made hereunder shall be in writing and shall be deemed to have been given if made by hand delivery with signed receipt, or when mailed by first class registered or certified mail, postage prepaid, addressed to the city and Contractor at their respective addresses designated herein, or at such other address as the City or Contractor, as the case may be, shall have furnished in writing to the other.
19. Insurance: The Contractor shall maintain during the life of this contract the types and amounts of Insurance as specified in the attached "Insurance Requirements for City Contracts" (**Exhibit C**). The City shall be named as additional insured with regard to the performance of the contract services.

CONTRACT AGREEMENT

These Contract Agreements, together with the other Contract Documents herein above mentioned, form this Contract, and they are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the City hereby agree that all the terms and conditions of this Contract shall by these presents be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the City do hereby execute this contract.

EXECUTION BY THE CITY OF LINCOLN, NEBRASKA

ATTEST:

City Clerk



CITY OF LINCOLN, NEBRASKA

Mayor

Approved by Executive Order No. _____

Dated _____

EXECUTION BY CONTRACTOR

IF A CORPORATION:

ATTEST:

Secretary

(Seal)

Kemiron Companies Inc.
Name of Corporation

3211 Clinton Parkway Court
Address

By: _____
Duly Authorized Official

Inside Sales Mgr
Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

Name of Organization

Type of Organization

Address

By: _____
Member

By: _____
Member

IF AN INDIVIDUAL:

Name

Address

Signature

Original

4. PRICING

4.1 Liquid Ferrous Chloride solution shall be measured and paid by the gallon of FeC12 solution delivered and unloaded.

4.1.1 This basis of payment shall be full compensation for all labor materials and equipment necessary to furnish, deliver and unload material.

COMPANY NAME Kemiron Companies Inc

PROPOSAL
SPECIFICATION NO.05-064

BID OPENING TIME: 12:00 NOON
DATE: March 16, 2005

The undersigned bidder, having full knowledge of the requirements of the City of Lincoln for the below listed items and the contract documents (which include Notice to Bidders, Instructions to Bidders, this Proposal, Specifications, Contract, and any and all addenda) and all other conditions of the Proposal, agrees to sell to the City the below listed items for the performance of this Specification, complete in every respect, in strict accordance with the contract documents at and for unit prices listed below.

ADDENDA RECEIPT: The receipt of addenda to the specifications numbers ____ through ____ are hereby acknowledged. Failure of any bidder to receive any addendum or interpretation of the specifications shall not relieve the bidder from obligations specified in the bid request. all addenda shall become part of the final contract document.

THE ANNUAL REQUIREMENTS FOR:
LIQUID FERROUS CHLORIDE
(FeC12)

BIDDING SCHEDULE

<u>ITEM</u>	<u>ITEM DESCRIPTION</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>TOTAL</u>
1.	Liquid Ferrous Chloride (FeC12)	750,000 Gal.	\$0.392	\$294,000.00

BID SECURITY REQUIRED:

Yes ____ Amount:
No X

Special provisions for Commodity Term Contracts are included with the specification document. Bidders are urged to read the Special Provisions before completing the following sections of the Proposal.

Contract Extension Renewal is an option: Yes X
No ____

TERM PRICE CLAUSE: BIDDER MUST STATE

- (a) Bid prices firm for the full contract period: X; or
(b) Bid prices subject to escalation/de-escalation: ____.
(c) If (b), state period for which prices will remain firm:
Through ____.

Years 2 + 3 + 4 would be subject to escalation / de-escalation to be negotiated and agreed upon at the end of each contract period.

INTERLOCAL PURCHASING: The City/County desires to make available to other local government entities of the State of Nebraska, by mutual agreement with the successful bidder, and properly authorized inter-local purchasing agreements, the right to purchase the same services, at the prices quoted, for the period of this contract. Each bidder shall indicate on the Bid Form in the space provided below if he/she will honor Political Subdivision orders in accordance with the contract terms and conditions, in addition to orders from City of Lincoln/Lancaster County.

X YES NO

If "YES", Contract supplier or suppliers may honor pricing and extend the contract to political sub-divisions, cities and counties. Terms and conditions of the contract must be met by political sub-divisions, cities and counties. Under no circumstances shall the City of Lincoln/Lancaster County be contractually obligated or liable for any purchases by these political sub-divisions, cities or counties.

COMPANY REPRESENTATIVE responsible for the administration of this Agreement:

NAME: Tammy Vergey
TITLE: Inside Sales Mgr.
PHONE NO. (800) 879-6353

AFFIRMATIVE ACTION PROGRAM: Successful bidder will be required to comply with the provisions of the City's Affirmative Action Policy (Contract Compliance, Sec. 1.16). The Equal Opportunity Officer will determine compliance or non-compliance, upon a complete and substantial review of successful bidder's equal opportunity policies, procedures and practices.

The undersigned signatory for the bidder represents and warrants that he has full and complete authority to submit this proposal to the City, and to enter into a contract if this proposal is accepted.

If you are a service provider you can guarantee that your service will be available and uninterrupted after December 31, 1999, and the deliverables will also be year 2000 compliant.

If you are a product supplier that each of your product, hardware, software and firmware, including embedded micro controllers in non-computer equipment, will correctly and accurately process date/time data (including but not limited to calculating, comparing and sequencing) from, into and between the 20th and 21st centuries, and the years 1999, 2000, and leap year calculations, and will properly exchange date/time data with other "year 2000 compliant" information technology.

**RETURN 2 COMPLETE COPIES OF PROPOSAL AND SUPPORTING MATERIAL.
MARK OUTSIDE OF BID ENVELOPE AS FOLLOWS:
SEALED BID FOR SPEC. 05-064**

Kemiron Companies Inc
COMPANY NAME

3211 Clinton Pkwy Ch
STREET ADDRESS or P.O. BOX

Lawrence, KS 66047
CITY, STATE ZIP CODE

(800) 879-6353
TELEPHONE

59-3657872
EMPLOYER'S FEDERAL I.D. NO.
OR SOCIAL SECURITY NUMBER


BY (Signature)

Tammy Vergey
(Print Name)

Inside Sales Mgr.
(Title)

March 14, 2005
(Date)

2-3 days
ESTIMATED DELIVERY DAYS (After
receipt of individual orders)

Net 30
TERMS OF PAYMENT